

US EPA ARCHIVE DOCUMENT

# WEST VIRGINIA HAZARDOUS WASTE PROGRAM DESCRIPTION

May 2013

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## SECTION I

### INTRODUCTION

This document is a report describing the hazardous waste regulatory program administered in West Virginia by three agencies: the Department of Environmental Protection (WVDEP), the Division of Highways and the Public Service Commission. It replaces the Program Description (PD) submitted in 2000 and the Program Description Addendum submitted in 2003.

This document reflects the evolution of the State's program from the time the program was last authorized in 2003, and also summarizes how the Federal regulatory requirements for the program are implemented by the State. This program description has been prepared in accordance with the requirements of 40 CFR §271.6 and is organized as follows:

Section I is this introduction.

Section II describes the Scope, Structure, Coverage, and Process of the Hazardous Waste Program (HWP) and includes a discussion of the legislative and regulatory provisions the State administers as well as a discussion of the differences between the Federal and State laws and regulations. Checklists are included as an attachment to the Office of Legal Services' Statement listing both Hazardous and Solid Waste Amendments (HSWA) and non-HSWA activities to provide a concise, definitive statement of which program areas the State has adopted and for which it has (or is seeking) authorization, as well as the program areas for which EPA remains responsible. The State is not seeking program authorization for the final rules addressed by Revision Checklists 204, 207, 210 and 219.

Section III provides a brief history and description of the WVDEP, which is the State lead agency assigned responsibility for the Hazardous Waste Program. Also, in Section III, the specific divisions which comprise the Hazardous Waste Program are discussed and their individual responsibilities are examined. This section additionally includes a discussion of the responsibilities and procedures for coordination among various State agencies and EPA. Organizational charts are included in Appendices in Section X. The organizational charts are updated monthly to reflect changes in personnel and positions. They are evergreen documents and reflect a snapshot of the month that they are printed.

Section IV deals with staffing and funding procedures and identifies hazardous waste staff and funding resources required to carry out the activities that are the subject of this program revision. This section additionally distinguishes between new resources and existing resources being assigned to the new responsibilities. The impact on the existing authorized program of adding all amendments through RCRA Cluster XX with the exception of Checklists 204, 207, 210 and 219 is also examined.

Section V describes the State Procedures that will be used to implement the program revision. It examines permitting, the biennial report, notification, compliance monitoring and enforcement.

Section VI describes WVDEP's structure and procedures for implementing HSWA Corrective Action, Mixed Radioactive Waste and Delisting as part of the HWP.

Section VII examines processes and resources of the Office of Environmental Enforcement.

Section VIII shows past regulated activities and estimated regulated activities as of the date of the Program Description.

Section IX is set aside for Copies of State Forms.

Section X includes Appendices containing Organizational Charts, Memoranda of Agreements, Memoranda of Understandings, inter-agency financial agreements and other documents providing a

detailed picture of agency roles and responsibilities, and coordination between the agencies implementing the Hazardous Waste Program

## SECTION II

### PROGRAM SCOPE, STRUCTURE, COVERAGE, AND PROCESSES

#### A. Scope and Coverage of Program Revision

The regulatory program described in this document reflects elements for which the State is already authorized (the base program and regulations addressed by program revisions through RCRA Cluster IX), and the regulations addressed by the Revision Checklists listed in Table II-1, for which the State is seeking authorization. All amendments are through Revision Checklist 224 of RCRA Cluster XX, with the exception of Revision Checklists 204, 207, 210 and 219:

- Revision Checklist 204 969 FR 21737, April 22, 2004; as amended on October 25, 2004 at 69 FR 62217: Note that effective May 14, 2009 (74 FR 22742) EPA terminated the Performance Track Program and is no longer granting authorization for the National Environmental Performance Track Program represented by Revision Checklist 204.
- Revision Checklists 207 (70 FR 10776, March 4, 2005; as amended on June 16, 2005 at 70 FR 35034) and 210 (70 FR 53420, September 8, 2005): West Virginia has only adopted a portion of the Uniform Manifest and Standardized Permit final rules in its current hazardous waste program regulations. Additional rule revisions have been introduced and presented to the state legislature. Once the additional rule revisions are finalized, West Virginia will seek authorization for Revision Checklists 207 and 210.
- Revision Checklist 219 (73 FR 64668, October 30, 2008): West Virginia is not adopting this federal rule which introduced less stringent revisions to the definition of solid waste, including an exclusion for certain hazardous secondary materials. States are not required to adopt or seek authorization for less stringent federal rules.

The following RCRA program elements are also not included in this authorization revision package: the requirements for existing and newly regulated surface impoundments provided in RCRA Section 3005(j)(2) & (6) and the variances from surface impoundment requirements provided in RCRA Section 3005(j)(2)-(9) and (13).

This document includes the completed revision checklists that demonstrate the State rules (regulations) to be on a par with the Federal program and, at times, more stringent in meeting the requirements of RCRA Clusters X-XX, with the above-noted exceptions. There are some specific differences between the State and the Federal program which are discussed in the next subsection. The State, in common with the Federal program, covers a like universe of generators and transporters except that the State requires that all hazardous waste generators, regardless of size, contact the State or EPA and obtain an EPA Identification Number. Relative to enforcement of the State's hazardous waste program, the State's program is equivalent to the Federal program. This is demonstrated in the State Procedures Section of this program description.

**Table II-1**  
**Revision Checklists Addressing Rules**  
**For Which the State Is Seeking Authorization**

- |     |   |
|-----|---|
| 162 | Clarification of Standards for Hazardous Waste LDR Treatment Variances (Note that West Virginia excludes 40 CFR 268.44 from its IBR of 40 CFR part 268 and is not seeking authorization for any of the 268.44 provisions) |
|-----|---|

- 181 Universal Waste Rule
- 183 Land Disposal Restrictions; Wood Preserving Wastes, Metal Wastes, Zinc Micronutrient Fertilizer, etc; correction.
- 185 Organobromine Production Wastes
- 187 Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments
- 188 NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors
- 189 Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
- 190 Deferral of Phase IV Standards for PCB's as a Constituent Subject to Treatment in Soil
- 191 Storage, Treatment, Transportation and Disposal of Mixed Waste
- 192 Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived From Rules
- 193 Change of EPA Mailing Address; Additional Technical Amendments and Corrections
- 194 Mixture and Derived From Rules Revision II
- 195 Inorganic Chemical Manufacturing
- 196 CAMU Amendments
- 197 Hazardous Air Pollutant Standards for Combustors; Interim Standards
- 198 Hazardous Air Pollutant Standards for Combustors; Corrections
- 199 Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste
- 200 Zinc Fertilizers Made from Recycled Hazardous Secondary Materials
- 201 Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries
- 202 NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors - Corrections
- 203 Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards
- 205 NESHAP: Surface Coating of Automobiles and light-Duty Trucks
- 206 Nonwastewaters from Production of Dyes, Pigments, and Food, Drug, and

## Cosmetic Colorants

- 208 Methods Innovation Rule and SW-846 Update
- 209 Universal Waste Rule: Specific Provisions for Mercury Containing Equipment
- 211 Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks exemptions")
- 212 NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)
- 213 Burden Reduction Initiative
- 214 Corrections to the Code of Federal Regulations
- 215 Cathode Ray Tube (CRT) Exclusion
- 216 Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas
- 217 NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments
- 218 F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes
- 220 Academic Laboratories Generator Standards
- 221 Expansion of RCRA Comparable Fuel Exclusion
- 222 OECD Requirements; Export Shipments of Spent Lead-Acid Batteries
- 223 Hazardous Waste Technical Corrections and Clarifications
- 224 Withdrawal of the Emission Comparable Fuel Exclusion under RCRA

West Virginia is also seeking authorization for certain State-initiated changes that are not directly related to any of the Revision Checklists listed in Table II-1. These State-initiated changes are related to the adoption and renumbering of provisions throughout the State's hazardous waste regulations. The changes improve the clarity of the State's regulations and provide for necessary conforming changes as a result of changes in State terms and agencies, or are related to Federal amendments that do not apply to West Virginia. In addition, 33-20-5.5 as found in the July 1, 2001 regulations was removed. This provision specifically incorporated by reference the March 8, 2000 federal final rule addressed by Revision Checklist 184 and was necessary because at the time, West Virginia incorporated by reference 40 CFR as of July 1, 1999. The provision is no longer necessary because West Virginia now incorporates by reference 40 CFR as of June 16, 2010. Table II-2 lists those State regulatory provisions that have been renumbered since the 2003 authorization.



**Table II-2**  
**Redesignated Provisions in West Virginia's Hazardous Waste Regulations**

<b>State Citation as Found in 33CSR20, effective July 1, 2001</b>	<b>State Citation as Found in 33CSR20, effective June 16, 2011</b>
33-20-5.3	33-20-5.4
33-20-5.4	33-20-5.5
33-20-7.4 through 33-20.7.8	33-20-7.3 through 33-20.7.7
33-20-8.3 through 33-20.8.6	33-20-8.2 through 33-20.8.5
33-20-10.3	33-20-10.2
33-20-10.5	33-20-10.3
33-20-11.3 through 11.22	33-20-11.2 through 11.21
33-20-13.4 through 13.6	33-20-13.2 through 13.4

Finally, West Virginia is seeking approval to utilize, at RCRA corrective action sites, the cleanup standards in its Voluntary Remediation Program (VRP), as addressed in its Voluntary Redevelopment Act (W. Va. Code § 22-22-1, et seq.) and its implementing regulations in Title 60, Series 3 of the Code of State Regulations (60 CSR 3), "Voluntary Remediation And Redevelopment Rule," effective June 16, 2011. Section VI provides details regarding how the State will implement corrective action at hazardous waste sites and the role of the VRP cleanup standards within the Corrective Action Program.

#### **B. Differences Between Federal and State Regulations**

The State's base program is generally equivalent to the Federal program. There are, as previously mentioned, areas where the State program is either more stringent or broader in scope, than the Federal program. Notable differences between the State and Federal programs include:

##### More Stringent and Broader in Scope Standards

West Virginia's HWP is, in some areas, more comprehensive than the federal program. See e.g. Checklists attached to the Office of Legal Service's (OLS) Statements and the Program Revision Checklists that are part of the State's authorization applications submitted to EPA. However, those areas where more extensive regulatory requirements exist, they do not extend the scope of the State's program coverage beyond that of the federal program; rather, the additional requirements should be viewed as within the federal scope of coverage for program delegation. The program elements that are more stringent than the federal program include:

- additional public notice requirements for permitting;
- a zero degradation standard for groundwater protection;
- preparation of environmental analyses when permitting new commercial facilities;
- protection standards for uncovered storage tanks;
- notification requirements for CESQG facilities
- prohibition against placement of CESQG hazardous waste in State landfills
- copies of all documents sent to EPA, including the exception reports required under 40 CFR 262 Subpart E, to also be sent to the state
- certain hazardous secondary materials are not excluded from the definition of solid waste because West Virginia is not adopting Revision Checklist 219 (Revisions to the Definition of Solid Waste (73 FR 64668; 10/30/08).

The only standard which is broader in scope than the federal program is the standard which pertains to permit application fees. See W.Va. Code 22-18-6(a)(11) and 33 CSR 20, §11.3. The State rules contain a fee schedule for permit applications.

With respect to the 40 CFR 264.94 groundwater monitoring standards, West Virginia, at 33-20-7.4.b, subjects owners and operators to the groundwater protection standards at 47 CSR 12. Pursuant to its provision at WV CSR Title 47 Series 12-4.1, in any instance where the 47 CSR 12 standard is less stringent than the Federal requirements, the State agrees to act in accordance with the Federal regulations and use the 40 CFR Parts 264 and 265 Subpart F standards for purposes of determining the need for corrective action at hazardous waste treatment, storage or disposal facilities.

Additional areas where the State program differs from the Federal program are identified in the consolidated checklists and revision checklists included in the OLS's Statements. The significance of these differences is discussed in detail in the Consolidated OLS's Statement signed by the General Counsel on December 3, 1999 and on the Revision Checklists in Attachment II of the OLS Statement for RCRA Clusters X – XX. Table II-3 shows the general correspondence between State rules and Federal regulations.

**Table II-3**  
**General Correspondence between State Rules**  
**And Federal Regulations**

EPA REGULATION Code of Federal Regulations (CFR)	STATE RULE	DESCRIPTION
PART 260	33-20-2, 45 CSR 25	Hazardous Waste Management System: General
PART 261	33-20-3, 45 CSR 25	Identification and Listing of Hazardous Waste
PART 262	33-20-5	Standards Applicable to the Generators of Hazardous Wastes
PART 263	33-20-6, 150 CSR 11, 157 CSR 7	Standards Applicable to the Transporters of Hazardous Wastes
PART 264	33-20-7, 45 CSR 25	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 265	33-20-8, 45 CSR 25	Interim Status Standards for Owners and Operators of Hazardous Waste TSD Facilities
PART 266	33-20-9, 45 CSR 25	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
PART 267	33-20-11	Standardized Permit
PART 268	33-20-10	Land Disposal Restrictions
PART 270	33-20-11, 46 CSR 8, 45 CSR 25	Permits for TSD Facilities
PART 273	33-20-13, 150 CSR 11, 157 CSR 7	Universal Waste Rule
PART 279	33-20-14, 150 CSR 11, 157 CSR 7, 45 CSR 25	Standards for the Management of Used Oil

## SECTION III

### STATE AGENCY RESPONSIBILITIES

#### A. Organization and Structure of the Hazardous Waste Program

The West Virginia Hazardous Waste Management Act, then Chapter 20, Article 5E, and since 1994, Chapter 22, Article 18, was originally written to give the primary implementation authority for the HWP to the West Virginia Department of Natural Resources (WVDNR). Therefore, from 1981 until 1992, the WVDNR was the lead agency assigned HWP responsibilities. State Government, however, underwent a major reorganization in 1992 and the West Virginia Department of Environmental Protection (WVDEP) was formed. On July 1, 1992, Executive Order No. 8-92, signed by Governor Gaston Caperton, transferred all sections of the Office of Waste Management from the WVDNR to the WVDEP. Subsequently, during the 1994 State Legislative Session, the Environmental Protection Reorganization Bill was passed officially transferring all environmental statutes formerly enforced by the WVDNR to the WVDEP. The WVDEP was originally under the Department of Commerce, Labor and Environmental Resources. This department was abolished by the 1994 Legislature and the agencies reorganized with the WVDEP being placed under the Bureau of Environment. The Secretary of the Division of Environmental Protection also served as the Commissioner of the Bureau of Environment and answered directly to the Governor.

In 2005, the Bureau of Environment was abolished and all powers relating to environment were reorganized into the WV Department of Environmental Protection which resides within the Executive Branch of the Governor's Office. Also in 2005, the Office of Waste Management and the Office of Water Resources were discontinued as DEP entities. The Division of Water and Waste Management (DWWM) was created from the two. The Hazardous Waste Program (HWP) was structured within the Division of Water and Waste Management. As part of this restructuring, the group responsible for hazardous waste permitting was moved to the Permitting Section of the Division of Water and Waste Management. The Compliance Assurance Emergency Response Section (CAERS) was defunct. The CAERS section which had the Compliance Monitoring Unit (CMU) and the Enforcement Unit (EU) were combined and moved to the Office of Environmental Enforcement (OEE). The Emergency Response Unit of the CAERS was moved out of the DWWM and into a new entity named the Division of Homeland Security and Emergency Response (HSER). The Waste Minimization Program, the Generator Assistance Program, and the Special Projects Program, originally part of CAERS, were moved to the Waste Permitting Section of the Division of Water and Waste Management. RCRA Data Management became a stand-alone office housed under the Division of Water and Waste Management, and was renamed Data Management and Program Support (DMPS). The portion of the Hazardous Waste Program housed within the Office of Air Quality has remained basically unchanged except that the Office of Air Quality was renamed the Division of Air Quality (DAQ). The Division of Land Restoration (DLR) is responsible for brownfields, UST's, Corrective Action and the voluntary assessments and agreement with the facilities. The DWWM maintains responsibility for corrective action for those facilities that have a RCRA TSDF permit.

Previously the WV Division of Highways (DOH) was responsible for hazardous waste transportation on roads and highways; and the Public Service Commission (PSC) was responsible for railroad transportation of hazardous waste. Currently, the DOH maintains the authority for the responsibility of roads and highways, but the PSC has taken over the primary role and is now responsible for transportation of hazardous waste via railroads, roads, and highways in WV. The PSC has three divisions that have a role in hazardous waste transportation --- the administration division, the registration division, and the enforcement division. The PSC now is part of a six state reciprocal agreement and requires that any transporter of hazardous waste in WV have a WV registration or a registration from a reciprocal state. The enforcement division enforces regulations concerning the transportation of hazardous waste.

Organizational charts for WVDEP, its divisions, and offices are included in the Appendices in Section X. The Division of Water and Waste Management (DWWM) is the office within the WVDEP that is primarily responsible for regulation of hazardous waste management within the State. This responsibility includes regulation of hazardous waste generators and transporters, along with treatment, storage and disposal facility operators. The Division of Land Restoration (DLR), Office of Environmental Remediation (OER) oversees the Voluntary Remediation Program (VRP). Within the WVDEP, the Division of Air Quality (DAQ) regulates hazardous waste air emissions. Outside of the WVDEP, two agencies, the Division of Highways (DOH) and the Public Service Commission (PSC), regulate the railroads, roads, and highways hazardous waste transportation.

## **B. The Division of Water and Waste Management (DWWM)**

The DWWM Hazardous Waste Permitting Section performs permitting functions with respect to owners and operators of hazardous waste Treatment, Storage and Disposal Facilities (TSDF's). The DLR performs corrective action work. The OEE monitors and enforces RCRA requirements pertaining to generators of all classifications (including Conditionally Exempt Small Quantity Generators (CESQGs)), certain RCRA requirements pertaining to hazardous waste transporters, and all requirements pertaining to TSDFs, with the exception of RCRA requirements for air emissions which are governed by DAQ.

In addition to the enforcement of RCRA regulations, the DWWM is responsible for developing the State's rules related to hazardous waste management and for demonstrating to EPA the State's ability to implement an effective hazardous waste regulatory program. The DWWM prepares the hazardous waste rules based on State and Federal statutory requirements. The various duties of this section in support of the RCRA program are as follows:

- Monitoring compliance with State and federal hazardous waste rules and regulations;
- Enforcement of State and federal hazardous waste management rules and regulations;
- Drafting rules on hazardous waste to maintain consistency with the federal regulatory program and in keeping with the State goal to provide an ample measure of protection for human health and the environment;
- Educating the program staff, other State personnel, the regulated community and the general public on regulatory requirements;
- Responding to inquiries from various industries and the general public (generator assistance); and
- Promoting waste minimization activities among the regulated community.

The DWWM has responsibility for implementing and enforcing its program components as well as those functions assigned to it by the EPA/State Memorandum of Agreement (MOA) and State interagency agreements, Memoranda of Understanding (MOUs). In addition to implementing these functions, the DWWM also makes recommendations on the identification and listing of hazardous waste to the Secretary of the WVDEP, recommends standards for groundwater protection to the Environmental Quality Board (EQB), develops permitting and enforcement strategies for recommendation to the Director of the WVDEP and coordinates with other agencies, administers and disburses EPA grant funds to other agencies and performs other duties as assigned by the Secretary of the WVDEP, or detailed in the State/EPA MOA or by any of the MOUs with other State HWP agencies. The MOA and MOU's are included in the Appendices Section X.

### Hazardous Waste Permitting Section

The DWWM Hazardous Waste Permitting Section is responsible for administering the State's permitting program for hazardous waste treatment, storage and disposal facilities. The Hazardous Waste Permitting Section ensures that persons do not operate a treatment, storage or disposal facility unless they demonstrate the ability to operate the facility in a safe and effective manner and meet financial assurance requirements. The various duties performed by the

Hazardous Waste Permitting Section in support of the RCRA program are:

- To review permit applications and issue Hazardous Waste Management (RCRA) Permits, Post-Closure Permits for land disposal facilities, Corrective Action Permits, and Emergency Permits ;
- To issue, whenever necessary, Notices of Deficiency (NODs) that inform applicants of deficiencies in the permit applications;
- To review and approve or reject requests for permit modifications;
- To conduct technical reviews of permitted sites and of sites seeking permits to verify the accuracy of information provided by the applicant;
- To provide data review of permit data in the RCRAInfo system.
- To provide technical assistance to OEE, upon request.
- To ensure that Financial Assurance requirements are met and maintained by permitted hazardous waste facilities.

Relative to permitting, the Hazardous Waste Permitting Section is responsible for issuing RCRA Permits, including Emergency Permits. The DLR is responsible for implementing Corrective Action requirements under 3004(u) of RCRA and other requirements promulgated under the authority of the Hazardous and Solid Waste Amendments (HSWA) of 1984 for those facilities that do not have a RCRA permit.

#### Data Management and Program Support Section

The "Data Management and Program Support Section" (DMPS) tracks data for the management of hazardous waste in West Virginia. The primary duties of the section are below.

- Providing relevant information to EPA for assignment of U.S. EPA ID numbers for generators, transporters, and treatment, storage and disposal facilities (TSDFs), including collection of Notification of Hazardous Waste Activity Forms, which are, in turn, sent to EPA;
- Assignment of ID numbers to one time or provisional generators of hazardous wastes;
- Collection and generation of annual reports of hazardous waste activity and submission of Biennial Report data to EPA Region III;
- Data entry and management of compliance and enforcement data into the Resource Conservation and Recovery Act Information System (RCRAInfo);
- Grant performance tracking and State/EPA coordination.

#### Waste Minimization, Generator Assistance and RCRA Special Project Section

The DWWM Waste Minimization, Generator Assistance, and Special Project Section is a combined role under the HW permitting section. RCRA §3002, and State Rules that incorporate the applicable parts of 40 CFR by reference, require generators of hazardous waste to identify, in their annual reports, the efforts undertaken to reduce volume and toxicity of waste generated, as well as identify reductions in volume and toxicity that have actually been achieved. Moreover, generators are required to certify, on their manifests, that they have a waste reduction program in place to reduce the volume or toxicity of waste as far as economically possible. The Waste Minimization Program is an assistance program within the DWWM permitting section. The staff consists of one person with combined duties as Generator Assistance and Waste Minimization Specialist. The waste minimization activities include aiding generators in making volume and toxicity reductions as well as helping to maximize the opportunities available for recycling. The generator assistance role works in Special Projects and encompasses diverse areas such as the generator assistance program, RCRA authorization and rule adoption, rule development and regulatory interpretation. Generator assistance encourages waste minimization among all sizes of hazardous waste generators and responds to inquiries from the public on hazardous waste rules or regulations, proper management of household hazardous waste; and the meaning and applicability of new state rules or federal regulations.

### **C. Office of Environmental Enforcement (OEE)**

The Office of Environmental Enforcement (OEE) monitors compliance with RCRA requirements pertaining to generators of all classifications, and certain requirements pertaining to hazardous waste transporters. This is accomplished by Environmental Inspectors conducting periodic inspections at all permitted facilities as well as conducting inspections of hazardous waste generators and transporters.

Specific duties performed are:

- Conducting maintenance inspections of permitted facilities;
- Conducting inspections of generators, transporters, and treatment, storage and disposal facilities to determine compliance with regulatory requirements and permitting requirements;
- Identifying non-notifiers;
- Investigating complaints or reports regarding hazardous waste activities;
- Developing expertise by performing inspections for non-delegated requirements promulgated by EPA under the Hazardous and Solid Waste Amendments of 1984 (HSWA);
- Overseeing groundwater extent of contamination and remediation projects;

Priorities for inspecting TSDFs are based on an evaluation of the facilities' impact on public health and the environment. The highest priority is assigned to facilities that meet the following criteria:

- On-going enforcement actions or corrective action facilities;
- Demonstrated contamination of groundwater which is currently utilized as a source of drinking water;
- Industrial facilities which fall into at least two of the following categories:
- Facilities known to have contaminated groundwater and/or surface water;
- Facilities that store, treat or dispose of very large quantities of hazardous wastes;
- Facilities that have had frequent enforcement actions.

### **D. Division of Highways (DOH) and the Public Service Commission (PSC)**

#### Division of Highways (DOH)

The West Virginia DOH has broad statewide responsibilities for highway construction and safety. The DOH also promulgates rules and maintains compliance enforcement authority for hazardous waste transported on state roads and highways. The DOH hazardous waste transportation enforcement program is administered by the Safety Director. The DOH performs those functions agreed to in the MOU.

The DOH has secondary responsibility for enforcement of transportation for hazardous waste to and from designated facilities including tracking of hazardous waste manifests.

#### West Virginia Public Service Commission (PSC)

The PSC is the state agency charged with responsibility of regulating public utilities. As such, it regulates rates, charges and service reliability for the telephone, electric, gas, water and sewer utilities. The PSC is also the primary regulator for the hazardous waste transportation programs for rail, roads, and highways shipment in West Virginia. The hazardous waste program for transportation is administered by the Director of the Transportation Safety Division. The PSC performs those functions agreed to in the MOU. The PSC has statewide jurisdiction over hazardous waste transportation therefore; PSC inspectors and PSC administrative staff-persons

regulate transportation of hazardous waste and hazardous substances as part of their overall job duties. The PSC is currently utilizing a six state alliance to perform hazardous material (including hazardous waste) registration and enforcement in WV for roads and highways.

The PSC has primary responsibility for enforcement of transportation for hazardous waste to and from designated facilities including tracking of hazardous waste manifests.

#### **E. Division of Air Quality (DAQ)**

The DAQ is the agency within the WVDEP which is tasked with preventing air pollution and protecting air quality as well as being vested with jurisdiction and responsibility over air emissions from hazardous waste TSD facilities. The DAQ has jurisdiction over facility performance standards of treatment devices (e.g., incinerators, boilers and industrial furnaces, open burning or subpart X units) and over other TSD facilities which have air emissions. The DAQ performs rulemaking, permitting, compliance monitoring inspections, and enforcement activities. The DAQ has established a Hazardous and Solid Waste Management Section (HSWS) which reports to the Director of the DAQ. The DAQ performs the functions listed in Table IV.D-4 as well as functions agreed to in the MOA and MOU. The class of hazardous waste activities regulated by the DAQ include combustion units (incinerators, boilers and industrial furnaces), thermal treatment units, miscellaneous units (carbon regeneration, open burning, small quantity burners), and air emissions standards from hazardous waste TSD facilities. The DAQ has statewide jurisdiction over the RCRA permitting, compliance monitoring and enforcement of these activities as well as permitting, compliance monitoring and enforcement of the Clean Air Act (CAA).

The Combustion Strategy is the plan of the DAQ with respect to the permitting and compliance tracking of hazardous waste incinerators, small quantity burners, state-regulated boilers and industrial furnaces (BIFs) and open burning. West Virginia has three (3) active Hazardous Waste Combustion Facilities, one (1) open burning facility and four (4) small quantity burners. Currently, there are more than eighty-eight (88) large quantity generators and 12 permitted TSD facilities that may be subject to subpart AA, BB and CC air emission standards under 40 CFR 264, 265, 266, 270. The exact number of generators and TSD facilities fluctuates somewhat from year to year. The DAQ has representatives who monitor trial burns/compliance performance stack tests of those regulated facilities.

#### **F. Environmental Quality Board (EQB) and Air Quality Board (AQB)**

The EQB has appellate review authority for the State's hazardous waste permits, as well as other regulatory programs. The EQB consists of five members and has a staff that includes a secretary, clerk, and legal counsel. Due to their appellate role in the State's NPDES program, members of the EQB must meet the conflict of interest requirements of 40 CFR §123.25(c). See W.Va. Code §22B-1-11.

The AQB is comprised of seven members. The AQB has appellate review authority of orders and permitting activities of the DAQ under the State's Clean Air Act and the hazardous waste program. The members of the AQB must meet the conflict of interest requirements of W.Va. Code §22B-1-11. The AQB shares staff with the EQB utilizing the same secretary, clerk, and legal counsel. The two boards are, otherwise, independent and no person is a member of both boards.

#### **G. Office of Legal Services (OLS)**

The OLS is an office within the WVDEP which acts as in-house counsel to perform all legal services for the Director of the WVDEP, including, but not limited to, representing the Secretary, Directors, or any Office thereof in any administrative proceedings or any proceeding in any state or federal court. The organizational structure for the OLS is included in the Appendices in

Section X. The Division of Air Quality (DAQ), within the WVDEP, also utilizes the services of the OLS. As a means to ensure adequate legal representation, the 1995 Legislature authorized the DEP to employ its own legal counsel for environmental matters rather than using the Attorney General's Office (W. Va. Code §22-1-6(d)(8)).

#### **H. Coordination Between Groups**

Each agency coordinates its hazardous waste activities with the lead agency as well as with the other state HWP agencies as necessary. State interagency coordination involves scheduling of joint inspections, discussions on establishing standards so as to avoid duplication, resolution of any discrepancies in program operation that may arise, coordination of public participation activities, and coordination of permitting and enforcement activities.

The DWWM has entered into MOUs with the PSC, the DOH and DLR pertaining to coordination of the hazardous waste program. The WVDEP, particularly the DWWM, is the agency that other state agencies and EPA contact when an issue concerns one or more of the State agencies that have signed the MOU, or when it is unclear which state agency should be contacted regarding a specific matter or issue.

The WVDEP's lead agency responsibilities also include contact between the State and EPA. Coordination efforts at this level serve to inform State agencies of EPA regulatory changes as well as changes in program guidelines and program elements that may have an impact or affect State program operations. The WVDEP also acts as the focal point for US EPA contact; serving as a clearinghouse for information concerning US EPA requirements; coordinating overall State program milestones; performing the duty of informing EPA of the State's overall program status and progress. In addition, the WVDEP coordinates State action necessary to secure federal funds, and oversees subsequent distribution of those funds to State agencies involved in the hazardous waste program. The WVDEP also confers with other states in matters relating to hazardous waste management.

## **SECTION IV**

### **STAFFING AND FUNDING RESOURCES**

#### **A. Description of Staffing**

The WVDEP, based on 2010 data, has a total of seven hundred ninety five (795) employees which is a decrease of approximately 30 employees since 2006. The WVDEP is divided into the DAQ, DLR, DMR (Division of Mining Remediation), DWWM, OLS, HSER, and the Executive office. The divisions within the WVDEP which enforce RCRA regulations are the DWWM, DLR and the DAQ. The DWWM has a total of two hundred and ten (210) employees. Of those employees, eight (8) work on hazardous waste permitting, The Data Management and Program Support Section has four employees (4) that work on the data collection for hazardous waste, and fifteen (15) employees work on the environmental enforcement of hazardous waste related regulations in EEO. The DAQ has a total of eighty eight (88) employees and three (3) employees work on the hazardous waste program. The OLS has 3 persons assigned to the hazardous waste program. The Division of Homeland Security and Emergency Response have eight (8) employees that are available to work on hazardous waste issues. The DLR has six (6) employees that work on hazardous waste remediation. State Agencies outside of the WVDEP that enforce aspects of RCRA are the Department of Transportation's Division of Highways (DOH) and the Public Service Commission (PSC). The PSC has a total of 77 employees that work on hazardous materials including hazardous waste enforcement on roadways and railroad. The DOH has a staff of three (3) that may work on hazardous waste transportation issues.



## **B. Overall Changes in Existing Program Resources**

The size of the regulated community has changed from the time of West Virginia's initial HWP authorization. At the time of base authorization, the HWP, or Program, was regulating approximately sixty four (64) generators, twelve (12) stand-alone transporters and thirty nine (39) Treatment, Storage and Disposal (TSD) facilities. Currently, the Program is regulating two thousand nine hundred and thirty five (2935) generators; one hundred and forty one (141) large quantity generators, three hundred and ninety four (394) small quantity generators and twenty four hundred (2,400) conditionally exempt small quantity generators. In addition there are forty five (45) stand-alone hazardous waste transporters and approximately (the number continues to vary) eighteen (18) permitted Treatment, Storage and Disposal (TSDF's) Facilities. The number of hazardous waste generators has significantly decreased since the previous Program Description (approximately 5,440 totals). However, the number of LQG have been relatively consistent as well as the total tons of hazardous generated (see table VIII.D.1). Changes in the number of SQG and CESQG account for the majority of the changes in the overall number of generators.

Analyses of hazardous waste samples are performed for the HWP by private laboratories which must be State Certified to ensure that the laboratory is capable of performing correct analyses. The contracted laboratories have an agreement with the HWP to perform analyses as needed. The charges, per sample analysis, vary based on the urgency and type of material to be analyzed.

The labs conduct analysis of hazardous wastes (e.g.; metals, organic, and other inorganic wastes) according to analytical procedures outlined in the EPA document "Test Methods for Evaluating Solid Waste (SW-846)", as amended. Generally, the time taken to conduct the testing of various hazardous waste samples varies between one week to three months depending on the type of waste and the test procedure.

## **C. Itemization of Estimated Costs and Sources of Funding**

Table IV.C-1 provides a listing of funding for the Resource Conservation and Recovery Act Program (RCRA). The majority of these resources are dedicated to the federally-required portion of the Program. The agency increased the cost of RCRA Permit activities through additional fees upon TSDFs. Federal funding accounts for approximately 70 percent of the budgeted RCRA grant fund while the State covers the remaining 30 percent. The amount of funding over the last five years is shown in Table IV.C-1. There are no specific limitations or restrictions on State or Federal funding other than the requirement that the State meet its grant commitments. In addition to standard funding, West Virginia has submitted proposals when EPA has made supplemental funds available.

Actual costs for West Virginia to operate the WVDEP during 2010 were \$335,785,415. Of that amount for the same year the DWWWM budget was \$90,782,134. It is expected that the budget for the upcoming year will remain approximately the same as or be a slight increase over the 2010 budget.

State funding is derived from the State Hazardous Waste Management Fund and from legislative appropriations to the participating agencies. The Hazardous Waste Management Fund is comprised of permit application fees and net proceeds of administrative settlements, civil enforcement assessments, and forfeitures. There are restrictions on use of the funds from these sources to implement and administer the HWP.

**TABLE IV.C-1  
RCRA PROGRAM EXPENDITURES  
BY YEAR**

Expenditures 2006	DWWM	WVDEP	Comments
	\$106,386,850	\$271,653,017	829 total WVDEP employees

Expenditures 2007	DWWM	WVDEP	Comments
	\$110,630,398	\$298,287,222	

Expenditures 2008	DWWM	WVDEP	Comments
	\$73,462,066	\$306,763,511	

Expenditures 2009	DWWM	WVDEP	Comments
	\$80,783,635	\$325,168,345	

Expenditures 2010	DWWM	WVDEP	Comments
	\$90,782,134	\$335,785,415	795 total WVDEP employees

**D. Staffing and Funding by Office/Section**

The three State agencies that administer the hazardous waste program are WVDEP, DOH, and PSC. Each agency's staff is managed by that agency and the program is coordinated by WVDEP in its role as lead agency. The following description of the HWP staffing is subdivided by agency and section.

**Current WV Hazardous Waste Staffing  
(Federal/State Funded Full Time Equivalent Positions per State Agency)**

Division of Environmental Protection

This includes work shared among  
The DWWM, the DLR, DAQ, HSER,  
And the Office of  
Legal Services

41

Division of Highways

3

Public Service Commission

77

**1. The DWWM Hazardous Waste Management Permitting Section**

As seen in Table IV.D-1 the Hazardous Waste Permitting Section is led by a Senior Technical Analyst who reports to the DWWM Permitting section Engineer Chief and supervises a total of seven employees, including one environmental resource specialist III, three permit writers, and one geologist. Clerical support is provided by the Permitting Section secretary. Overall supervision is provided by the permitting section Engineer Chief. The permit writers have been trained in the issuance of RCRA permits with additional training provided as needed to enable the technical review and approval required for changes in the program. RCRA technical training is an ongoing activity within the Permitting Section.

**Table IV.D-1**

**DWWM Permitting Section - Hazardous Waste Permitting Section**

<b>Number of Employees</b>	<b>Title</b>	<b>Job Description</b>
1	Senior Technical Analyst	Management, program development, policy and administration. Management of HW TSDF Permit program, technical assistance, and permit program development.
3	Permit Writers	Technical and administrative review of TSDF permit applications, technical review of GWM plans/results, technical assistance to other sections.
1	Permit Geologist	Hydro geologic and administrative review of TSDF permit applications, geologic/Hydrogeological assistance to staff engineers and other HWP staff.
1	Environmental Resource Specialist III	HW listings review, application review, assistance to other section staff.
1	Office Assistant (Clerk or Secretary)	Provides clerical support to the permitting staff.

## **2. The DWWM Office of Environmental Enforcement (OEE)**

As seen in Table IV.D-2, the OEE has a total staff of fourteen (14) full time hazardous waste employees and the OEE Chief Inspector. This Section deals with compliance and enforcement of regulations at permitted facilities and also with all hazardous waste generators and transporters.

**Table IV.D-2  
DWWM Office of Environmental Enforcement**

<b>Number of Employees</b>	<b>Position</b>	<b>Description of Duties</b>
1	Assistant Chief	Reports to the DWWM OEE Chief Inspector. Perform management of actions, enforcement policy review, and assistance to other staff.
2	Inspector Supervisor	Management of enforcement actions, enforcement policy review, and delegation of cases to enforcement unit staff, program development
1	Environmental Inspector Specialist (*Northern and Southern Units)	Management of field investigative force, tracking and scheduling inspections, sampling QA, compliance evaluation, program development. *The Northern Unit Specialist position is currently not filled. An Environmental Inspector is being trained to fulfill the Specialist role.
8	Environmental Inspectors	CEIs, sampling, inspection reporting, complaint and violation investigation, assistance on field permit application review.
2	Office Assistant (Clerk or Secretary)	Clerical.

## **3. The DWWM Permitting Section – Special Projects Section**

The Special Projects Section consists of one Environmental Resource Specialist (ERS) and shares an Office Assistant with the DWWM Permitting Section. The ERS reports to the Permitting Section Engineer Chief. The Special Projects coordinator is responsible for RCRA Waste Minimization, Generator Assistance, Rule Making for the WV HWMS rule 33 CSR 20, and EPA authorization activities including the HWP Program Description. The role also acts as a liaison between the EPA and the State for RCRA activities as well as between the individual sections within the WVDEP that may have an ongoing RCRA activity. RCRA operating permit and corrective action Financial Assurance, Biennial Reporting reviews, and the Hazardous Waste Assessment Fee activities are some of the areas of involvement as well as day to day role of subject matter expert for RCRA issues and questions. Clerical support is provided by the Permitting Section secretary.

**Table IV.D-3  
DWWM Permitting Section – Special Projects Section**

<b>Number of Employees</b>	<b>Position</b>	<b>Description of Duties</b>
1	Environmental Resource Specialist	RCRA Waste Minimization, Generator Assistance, WV HWMS rule 33 CSR 20 rule making, EPA authorization activities, EPA and State RCRA liaison, RCRA operating permit and corrective action, Financial Assurance, Biennial Reporting reviews, Hazardous Waste Assessment Fee activities, RCRA subject matter expert

#### **4. Division of Air Quality (DAQ) Staffing**

DAQ has a designated Hazardous and Solid Waste Section (HSWS) as described in this Section and depicted in Table IV.D-4. The DAQ's HSWS is staffed by an Assistant Director who reports to the Director of the DAQ, and by two (2) engineers and one shared secretary. The DAQ has provided funding resources to HSWS to ensure the enforcement of Rule 45CSR governing air quality at hazardous waste facilities.

**Table IV.D-4  
Division of Air Quality**

	<b>Position</b>	<b>Description of Duties</b>
1	Permit Engineers	Technical and administrative review of TSDF permit applications, technical review of design, operating parameters, trial burn plans and results, review the site-specific risk assessment for hazardous waste combustion units including air modeling and air emission inventory, and technical assistance to other DAQ sections.
1	Enforcement Engineers	Enforcement case development, liaison with OLS, field and file enforcement investigation, enforcement case tracking.  CEIs, inspection reporting, complaint and violation investigation.
1	Secretary (shared)	Clerical.

#### **5. Division of Highways (DOH) Staffing**

The Enforcement Division of the DOH maintains a secondary responsibility for the portion of the State HWP regulating the transportation of hazardous waste on roads and highways. An Assistant Director/State Safety Officer of the Enforcement Division directs HWP activities for the DOH. Table IV.D- 5 shows that, during a typical fiscal year, five DOH employees participate in HWP activities.

**Table IV.D - 5**  
**WV Division of Highways Staffing**  
**Enforcement Division**

<b>Position</b>	<b>Duties</b>
Safety Director (1)	DOH-HWP Management
State Safety Officer (1)	Training, compliance review
Regional Safety Inspectors (3)	Transportation and vehicular inspection

**6. Public Service Commission (PSC) Staffing**

PSC currently has responsibility for the regulation of the transportation of hazardous wastes by railroad, roads, and highways in the State. The PSC now has approximately 77 employees that are dedicated to hazardous materials transportation regulation which includes hazardous waste transportation. The PSC has a Registration section that requires transporters that use the Universal Hazardous Waste manifest to transport materials in WV be registered with the State or registered by one of 6 alliance states. The Railroad section has 8 inspectors and 1 inspector supervisor and 1 manager that regulate the transportation of hazardous waste by railroad. The Highways section is divided into the Eastern section and the Western section and has a total of 52 inspectors, 11 supervisors, 2 managers, and 2 secretaries. All of the PSC Highways sections are responsible for regulating hazardous materials, including hazardous waste transportation in WV.

**7. Environmental Quality Board (EQB) Staffing**

The EQB is an administrative Board consisting of five (5) board members. The EQB employs legal counsel, a secretary, and a clerk. The three positions also work for the AQB.

**8. Air Quality Board (AQB) Staffing**

The AQB is an administrative Board consisting of seven (7) board members. The AQB employs a secretary, a clerk and legal counsel that also perform work for the EQB.

Note: Although the EQB and AQB share administrative staff, the two boards are independent and have no board members serving on both boards.

**9. Office of Legal Services (OLS) Staffing**

The Office of Legal Services provides one attorney, one paralegal, and one office assistant to provide assistance for RCRA legal matters.

**10. Division of Land Restoration (DLR) Office of Environmental Remediation Staffing**

The DLR Office of Environmental Remediation has a total of six employees that work with hazardous waste on a daily basis. The staff consists of one manager, one office assistant, and four environmental specialists.

## **11. Division of Homeland Security and Emergency Response (HSER) Staffing**

The HSER provides a total of eight personnel that have the role of emergency response and cleanup for hazardous waste emergencies. One manager, one supervisor, and 6 responders are available at all times to respond to incidents involving hazardous waste and hazardous materials. Also, in the event of an emergency, the HSER can call upon others in the WVDEP to assist as needed. If time allows the WVDEP employee's supervisor will be consulted with, otherwise the employee may be contacted directly to respond to an emergency. The HSER is not part of the RCRA program but they do provide emergency service during a spill or release that may involve hazardous waste.

## **SECTION V**

### **STATE PROCEDURES**

This section outlines some of the major activities and procedures performed by the HWP.

#### **A. Hazardous Waste Activity Notification**

The Data Management and Program Support section assists individuals in submitting relevant forms, providing correct information, and serves as a liaison between persons seeking permanent ID numbers with EPA and thirty day temporary ID numbers from the State. The program also provides input to the RCRAInfo database.

Any person who engages in a hazardous waste activity, such as generating, treating, transporting, storing, recycling, or disposing, in the State of WV shall notify the Secretary of these activities when that activity begins, unless those activities are exempted from the requirements of WV 33 CSR 20. CESQGs exempted from the federal notification requirements and generators and transporters of recyclable materials, are not exempted in WV 33 CSR 20, and must notify the Secretary on or before the date of initiation of these activities. Universal Waste facilities follow the same notification procedure as hazardous waste facilities.

Notification may be accomplished by the use of EPA form 8700-12 RCRA Subtitle C form, or the provision of the same information in any other manner selected by the operator. One notification form is required for each generator that stores, treats or disposes of hazardous waste.

An EPA ID number is assigned to the site to allow "cradle to grave" tracking of regulated waste activities. Once the completed 8700-12 application is received the Program support section searches the site address to ensure it does not currently have an active or inactive EPA number already assigned. In addition, the request is checked for quality to ensure all relevant information is provided. Once it is determined that the form meets all requirements, it is then entered into the EPA RCRAInfo database by the Program Support section for the issuance of a permanent EPA ID number. After the number has been issued, an acknowledgement letter is sent to the generator specifying the site specific ID number. When all paperwork has been completed, a file is created to track all facility information and stored in the RCRA Hazardous Waste filing system. All subsequent facility-specific information, such as inspection reports, enforcement actions, permitting and corrective action activities, is filed with the notification information.

Generators that have a one-time cleanup of regulated waste can have it legally transported to a proper disposal facility by obtaining a one-time-use provisional ID number. This provisional number is only issued for a 30 day period. A one-time generator must complete a Temporary ID Number Request form. Once a provisional ID number has been issued from a State database, the generator is notified with an acknowledgement email specifying the ID number assigned and the timeframe in which the number is valid. The generator must send a copy of the manifest to WVDEP when the cleanup is complete.

## **B. Resource Conservation and Recovery Act Information (RCRAInfo)**

All Hazardous Waste Program site-specific information is entered into and retained within US EPA's RCRAInfo data system. RCRAInfo replaced two legacy systems, RCRIS and the Biennial Reporting System (BRS) sometime in the late 1990s. In general, all information pertaining to the generators hazardous waste management activities is inputted into RCRAInfo by DWWM Program Support section. Specifically, there are seven modules available within RCRAInfo in which information is maintained. Once monthly, the non-sensitive data is uploaded to two public access systems:

Envirofacts – This system provides the public with access to U.S. EPA environmental data affecting air, water, and land anywhere in the United States.

ECHO -- Enforcement and Compliance History Online provides the public with data about facility compliance status and EPA/State enforcement of environmental regulations.

WV is Implementer of Record (IOR) for all modules except Corrective Action (CA) which is maintained by EPA Region III. WV plans to assume IOR for the CA module in the near future.

1. Handler: The Handler Module is the starting point for all information about hazardous waste handlers entered into RCRAInfo. It stores facility information, including location, ownership and waste streams.
2. Compliance Monitoring and Enforcement (CME): This module stores compliance evaluation, violation, and enforcement action information.
3. Corrective Action (CA): CA Module is used to track the specific corrective action information needed to regulate facilities found to have hazardous waste releases.
4. Permitting: The Permitting Module stores all permitting information for hazardous waste treatment, storage and disposal (TSD) facilities. Information includes all permitted units that are or were at some time required to obtain a RCRA permit to operate as a TSD. This module is designed for reports to track accomplishments in the permitting, closure, and post-closure areas.
5. Financial Assurance (FA): The Financial Assurance Module maintains information that assures that the owner operator will have the financial resources to close a treatment or disposal facility properly.
6. Geographic Information System (GIS): Maintains location coordinates of hazardous waste facilities, permit unit, and corrective action (CA) areas.
7. Waste Activity Reporting (WAR) module: This module supports the Biennial Reporting Process.

The Program Support Branch has a RCRAInfo Quality Assurance Procedures document that outlines specific responsibilities for RCRAInfo data management.

## **C. Statutory and Regulatory Program Revisions Procedure**

The authority for the promulgation of State rules on hazardous waste management is derived from Article 18, Chapter 22, of the West Virginia Code, (Annotated Code). The specific procedures for rule publication and rule format are described in detail in Rule 153 CSR 6 which is in the Appendix section X. The State's hazardous waste management rules appear as Rule 33 CSR 20. They have been structured to be at least as stringent as the federal program, and for the most part, adopt and incorporate the applicable parts of 40 CFR by reference. The DWWM's Hazardous Waste Permitting section has the primary responsibility for hazardous waste rules development.



A draft copy of the rules is prepared with the appropriate revisions to the Federal language to satisfy any specific requirements of the WVDEP documents. The rules are reviewed by the WVDEP General Council. Then a formal draft is prepared for submission to the State Register.

The draft is then submitted to the West Virginia Secretary of State and the Legislative Rule Making Review Committee (LRMRC), a standing committee of the State Legislature. The LRMRC does not have veto power over proposed regulations. If the LRMRC does not approve the rule, however, it generally does not get to go before the full legislature. Alternatively, any legislator can introduce the rule as an independent bill and, if that happens, the rule would follow the normal course of a routine piece of legislation. If the rule is approved by the LRMRC, then the legislature is required, by law, to consider it. Once the State rules have been adopted, the State seeks EPA authorization for the amendments. The State follows the procedures outlined in the EPA's State RCRA Authorization Manual and the regulations of 40 CFR Part 271.

**Table V.C - 1**

**WV Legislative Regulatory Development Process**

<u>Action</u>	<u>Time Required</u>
• Rules development	Variable
• Preliminary draft distributed to counties, interested parties, and Governor's Advisory Council for review	Variable
• Revisions to preliminary draft made, drafts put into format required by Secretary of State, proposal reviewed and approved by the General Council and the Secretary of the WVDEP	Variable
• Review by Legislative Rule Making Review Committee	16 days maximum
• Review by Secretary of State	15 days
• Publication in Register, Opportunity for public comment, and public hearing	30 days
• Comments on proposal addressed and Rule passed by Legislature during Legislative Session	Variable
• Preparation of Notice of Final Filing	within 90 days following Public Comment
• Review and approval by the General Council and the WVDEP Secretary	4-6 weeks (typical)
• Final Review by Secretary of State	10 days
• Publication in State Register	Variable
• Action becomes effective	10 days after publication

#### **D. Universal Hazardous Waste Manifest Procedure**

A manifest is the shipping document originated and signed by the generator of hazardous waste that contains the information required by 40 CFR as referenced by 33 CSR 20. The primary purpose of a manifest is to track hazardous waste from cradle to grave; that is, from the point of hazardous waste generation to the point of its proper treatment, storage or disposal. For this purpose, the State requires the use of the Universal Hazardous Waste Manifest form located in 40 CFR and does not collect or track manifests for hazardous waste shipments, except for generators that have a 30 day provisional EPA ID number. State personnel examine manifests during routine inspections and during case development investigations. EPA manifest requirements are fully enforced. Because the State uses the Universal Hazardous Waste Manifest form, a copy of the manifest is not included in the Appendix section X. The following rules pertaining to manifests are applicable:

- The generator shall keep a copy, in accordance with 33 CSR 20, Section 5;
- Each transporter shall keep a copy in accordance with 33 CSR 20, Section 6;
- The designated facility shall keep a copy in accordance with 33 CSR 20, Section 7;
- Copies of the manifest shall be available for inspection by authorized representatives of the WVDEP, DOH, PSC, or the USEPA.

#### **E. Permitting of New and Existing Treatment, Storage and Disposal Facilities (TSDF's)**

The Hazardous Waste Program is responsible for the permitting of Hazardous Waste treatment, storage and disposal facilities (TSDF's) in the State. Hazardous Waste Management permits are issued for both operating TSDF's and for closed facilities required to maintain post-closure care. Administrative Orders may also be used as mechanisms to cover RCRA closure and post-closure activities at unpermitted TSDF's. Although these are the most frequent types of permits issued, the State's rules provide for several other types of Hazardous Waste permits. These include Emergency permits to address situations where there is an imminent and substantial threat to human health or the environment.

Table V.E - 1 show the overall steps in the State's permitting process, followed by a detailed discussion. The list of Hazardous Waste Permitted Facilities can be found in the Appendix section X.

**Table V.E - 1**

#### **Permitting Process**

- |  |
|--|
| <ul style="list-style-type: none"><li>• The applicant notifies the WVDEP of Regulated Waste Activity and obtains an EPA ID Number (New Facilities only);</li><li>• The applicant submits Part A and Part B of the permit application; or the RCRA Standardized permit application.</li><li>• The State conducts a completeness review of the application;</li><li>• If applicable, the State issues a Notice of Deficiency (NOD) to applicant; More than one NOD may be necessary;</li><li>• The State conducts a technical review of the complete application, once received;</li><li>• The State sends an NOD if required, identifying the deficiencies revealed by the technical review (more than one may be necessary);</li><li>• The State prepares a draft permit or Notice of Denial;</li><li>• The State advertises this action and gives the public a maximum of forty five (45) days to comment, unless extended by the Director.</li></ul> |
|--|

- The State conducts a public hearing if requested with sufficient interest, as determined by the Director;
- The State makes a final decision to issue or deny the permit;
- The State issues the Permit. Once the Permit is issued, the opportunity exists for aggrieved parties to appeal to the Environmental Quality Board (EQB) within 30 days of issuance.

## **1. RCRA Permit Application Review Procedure**

RCRA Permit Applications may be for any combination of storage units (containers, tanks, etc.), treatment units (tank, incinerator, etc.) or disposal units (surface impoundments, landfills, etc.) Once the permit application is received by the WVDEP, the permit writer reviews it for completeness. The application is compared to the specific application requirements outlined in rule 33 CSR 20 and in DAQ Rule 45 CSR 25. Although the PSC and DOH are made aware of the RCRA permit application, they do not participate in the review and approval process for RCRA permits, as the two agencies do not have RCRA permit authority. The focus of the initial review is to determine whether the application is complete, however, if the permit writer finds technical inadequacies, they are noted for future action.

TSD facility application review is performed in the Permitting Section of the DWWM and the Hazardous Waste Section of DAQ. When an application or facility requires that both DAQ and DWWM act upon it, coordination is performed, staff to staff, between the agencies. This coordination is carried out using frequent telephone communication and conferences. Public hearings are held in these cases, and the issuance of a final action is coordinated as closely as possible.

The Permitting Section assigns specific applications to a reviewer, who may be an engineer, chemist, or geologist, depending on facility type and current workload. The reviewer is responsible for technical review of those portions of the application for which he has expertise, coordination of review of other review team members, tracking of applications review status, maintaining contact with the applicant's representative, and assuring that application review and applicant responses are performed in a timely manner.

A completeness review, as explained in more detail below, may result in a Notice of Deficiency (NOD) being sent to the applicant. The lead reviewer is responsible for assembling these comments and drafting the NOD. If the applicant is unresponsive to a NOD or subsequent information requirements, the lead reviewer may refer the problem to environmental enforcement and cooperate until the problem is resolved. Additionally the lead reviewer is responsible for assembling the comments of the review team members and resolving any in-house issues prior to advising the applicant of DEP comments on the application. Normally, any comments made on an application are transmitted by letter to the applicant, indicating the time period within which the applicant is expected to respond.

Conferences are held with the applicant to discuss the application and provide guidance. These conferences may be requested by the applicant or the DWWM.

The review of the permit application, from receipt to the issuance of the Permit, falls into four (4) stages excluding the public hearing(s) and appeal. One copy goes to the permit reviewer, another to the Environmental Inspector, one copy to EPA, and one to the Public Information Office.

## **2. Completeness Review**

The completeness of the permit application includes:

1. The application is reviewed to check if it contains all information required by applicable State rules and Federal regulations. The whole application is read and deficiencies are noted.
2. At least one site inspection is conducted by both the permit reviewer and the inspector to get first-hand information about operational procedures at the facility.
3. Based on the review of the application and information obtained during the site visit, the permit writer drafts a Notice of Deficiency (NOD). A NOD is a letter addressed to the applicant that clearly identifies all deficiencies discovered in the initial review of the application and provides guidance on how to address these deficiencies. A final review of the application and the NOD is made by the permit writer's supervisor who makes any necessary modifications to the NOD. Generally, the applicant is given 20 to 30 days to address the issues raised in the NOD. The applicant is encouraged to meet with the permitting staff to seek clarification on any issue related to the permit and to lessen the chances of misunderstanding the State's requirements.
4. The response submission to the NOD is reviewed and if the application is still deficient, a second (2nd) NOD is written (normally 2 NOD's are sufficient but in some cases, 3 NOD's are sent).
5. A letter is sent to the facility indicating that the application is complete.

## **3. Technical Review**

The technical review is started after the application is considered complete. The permit application consists of parts which are reviewed by different technical specialist such as engineers, geologists, and chemists. The procedure normally is as follows:

1. The specialist reviews the part of the application for which he has the professional specialty or for parts which need input from a specialist. The engineering designs are reviewed by the respective engineer(s), the geological and ground water part is reviewed by the geologist, and waste analysis plans and compatibility of different waste and containers are reviewed by the chemists.
2. Another site inspection by the permit reviewer is required to check the detailed designs to see if they conform with on-site units (The permit reviewer may be accompanied by the respective specialist and an Environmental Inspector).
3. The respective specialists give their comments to the permit reviewer who writes a Notice of Deficiency (NOD), if necessary, and sends it to the facility.
4. The facility's response submission to the NOD is reviewed and if the application is still deficient, a second NOD is written (normally 2 NOD's are sufficient to produce an adequate response).
5. The applicant is encouraged to meet with the permitting staff to resolve issues, thereby resulting in quick processing of the application.

Unless there are extenuating circumstances, the state expects that the applicant's response to these NOD's will resolve all outstanding issues. If the applicant's response to the NOD's does not address all issues raised by the State, the State could take either of two courses of action:

- Imposing certain conditions in the permit to obtain the required degree of protection; or
- Denial of the permit application.

Once the permit applicant has addressed all concerns raised by the State in reviewing the application, the permit writer prepares a Draft Hazardous Waste Permit. This is a binding legal document that identifies the requirements the applicant must adhere to when managing Hazardous Waste at the permitted facility.

#### **4. Draft Permit and Public Notice**

1. The draft permit is prepared after the application is considered complete, technically adequate, and meets respective regulatory requirements. A letter is sent to the applicant. The permit consists of the main body of the permit along with attachments and fact sheet (possibly to an amended fact sheet).
  - The Main Body--The main body of the permit consists of the standards and general conditions that are applicable to all hazardous waste facilities, and special conditions designed specifically for the facility. These special conditions include identification of the waste codes that may be managed, the quantities of waste that may be managed, and the processes that may be used to manage wastes. This section also includes conditions to address any special hazards posed by the particular wastes managed at the facility or any conditions necessitated by the particular circumstances of facility operations (special testing or certification requirements, etc.).
  - The Attachments to the permit include detailed descriptions of the facility and its operating procedures. The attachments provide specifics of facility design and construction and how the facility will be operated to comply with the State's hazardous waste rules. Examples of permit attachments include facility description, waste analysis plan, contingency plan, training plan, plans and specifications of waste management units, groundwater monitoring plan, treatability demonstration plan, trial burn plan, risk assessment, construction quality assurance/quality control plan, special requirements for managing ignitable or reactive wastes, and closure plan. Other attachments may be included depending on the nature of the regulated activity. The bulk of the information in the permit attachments comes from the permit application. However, it may be modified by the permit writer to assure that the information is adequate from both a technical and regulatory standpoint.
  - Once the draft permit is prepared, the permit writer submits it to the supervisor for review. The supervisor makes any necessary changes.
  - The permit writer also prepares a fact sheet for the draft permit. The fact sheet describes the facility and summarizes the conditions in the draft permit. It also lists the regulatory basis for each condition in the draft permit.
2. The public notice is prepared by the public information office and sent to a local newspaper in the general area of the proposed operation and aired on both AM and FM radio stations.

A copy of the public notice is sent to the applicant, some federal and state agencies, EPA and all persons on the mailing list.

3. A copy of the draft permit, attachments and fact sheet is sent to the facility, EPA the Environmental Inspector and some state and federal agencies.

## **5. Issuance of Final Permit**

1. Before the final permit is issued, all comments received from the applicant, EPA, other agencies, and the public are addressed and mailed to the commenter.
2. The permit is corrected, if there are minor corrections including additions based on public comment. If these additions and/or corrections do not need further public participation, the permit is finalized and issued. An addendum to the fact sheet showing all of the changes to the draft permit and fact sheet is prepared and becomes part of the permit.

*NOTES: 1) If a public hearing is conducted, additional input of manpower is required. It varies with different situations. For example, the public hearing for a permit for land disposal units or an incinerator will require more resources than permits for storage/treatment units.*

*2) The permits issued may be appealed to the Environmental Quality Board. Such appeals require additional resources of permitting and legal personnel.*

## **6. Public Participation and Appellate Review Procedure**

Section 11 of WV Rule 33 CSR 20 describes three separate public participation phases during the RCRA permit application process. The following are explanations of the rules in Section 11:

**Section 11.4.** The first phase is the Pre-application Public Meeting and Notice in Section 11.4 of 33 CSR 20. Prior to the submission of a Part B permit application for a facility, the applicant must hold at least one public meeting to inform the community and solicit questions. The applicant provides 30 days advance notice of this meeting by all of the following forms; a newspaper advertisement, a sign, a broadcast media announcement and a notice to the permitting agency.

**Section 11.5** The second phase is Public Notice Requirements at the Application Stage. As described in 33 CSR 20, Section 11.5, the State provides public notice when an initial hazardous waste Part B permit application is received or when applicants are seeking renewal of existing permits, except for post-closure activities and/or corrective action permits. The State provides copies of the public notice to the applicant as well as persons on a mailing list and all state and local governments affected by the permit. The State concurrently places copies of the permit application and supporting documents near the vicinity of the facility or at the Permitting agency's office.

**Section 11.6 The Information Repository.** If the Secretary determines that sufficient public interest exists regarding a proposed permit for a hazardous waste management unit, he or she may require the facility to establish an information repository at or near the facility for the public to access all relevant information, documents, reports and data about the unit.

**Section 11.7 Application for a Permit.** An applicant completes, signs and submits the application to the Secretary. New facility applications are reviewed for completeness within 30 days and existing facility permits (Part A and Part B) are reviewed for completeness within 60 days of submittal. Once the Secretary has determined that the application is complete, the applicant is notified and given a project decision schedule covering the draft permit, public notice, comment period, public hearing and final permit.

**Section 11.8 Modification, Revocation and Reissuance, or Termination of Permits.** Permits can be modified, revoked and reissued, or terminated only for reasons specified in 40 CFR Sections 270.41 or 270.43. The permittee or any person can request, in writing, that a permit be modified, revoked and reissued, or terminated. Denial by the Secretary of the request may be appealed to the EQB. The Secretary may modify, revoke and reissue, or terminate a permit on his or her own initiative for reasons specified in 40 CFR Sections 270.41 or 270.43. If the Secretary modifies or revokes and reissues a permit, he or she prepares a draft permit as described in Section 11.9. If the Secretary terminates a permit, he or she issues a Notice of Intent to Terminate which is a type of draft permit.

**Section 11.9 Draft Permits.** When the application is complete, the chief Secretary prepares a draft permit or issues a Notice of Intent to Deny, which is also a type of draft permit. The draft permit contains all conditions, compliance schedules, monitoring requirements, and standards found in 40 CFR Sections 270.30 through 270.33. The draft permit is accompanied by a fact sheet, is based on an administrative record, is publicly noticed and is made available for public comment.

**Section 11.10 Fact Sheet.** If the Secretary determines that a draft permit has wide-spread public interest or raises major issues, a fact sheet is prepared. The fact sheet is a condensation of all vital permit information, including public comment and public hearing details.

**Section 11.11 Public Notice of Permit Actions and Public Comment Period.** The Secretary provides public notice when a draft permit has been prepared and a public hearing has been scheduled. These two notices, the notice of a forty-five day public comment period and a thirty-day notice prior to a public hearing can be combined into one notice. Public notices are mailed to the applicant, other affected governmental agencies, and persons on a mailing list. Public notices are placed in major local newspaper and broadcast over radio, in addition to mailing.

**11.12 Public Comments and Requests for Public Hearings.** Any interested person may submit written comments on a draft permit and a written request for a public hearing.

**11.13 Public Hearings.** The Chief Secretary may hold a public hearing at his or her discretion, or if there is significant public interest in or opposition to the draft permit. The Secretary designates a presiding officer for the public hearing. The hearing officer may receive oral or written statements regarding the draft permit and shall make a transcript of the hearing available to the public.

**11.14 Reopening of the Public Comment Period.** Substantial new questions raised about a draft permit can cause the Chief Secretary to prepare a new, modified permit, prepare a revised fact sheet and reopen the comment period or reopen the comment period to allow interested persons more opportunity to comment. Public notice is given when any of those actions have occurred

**11.15 Issuance and Effective Date of Permit.** After the close of the comment period, the Secretary issues a final permit decision called a Notice of Decision to issue, deny, modify, or revoke and reissue, or terminate a permit. This written Notice of Decision is effective in 30 days of issuance unless otherwise specified or a hearing or review is requested.

**11.16 Response to Comments.** In the final permit decision, the Chief Secretary responds in writing to specific comments regarding changes to the draft permit or the permit application during any hearing or comment period. This response is available to the public.

**11.17 Administrative Record.** The provisions of the draft permit are based on the administrative record, which is the permit application, fact sheet, all supporting data and documents submitted by the applicant or determined by the Secretary. Final permit decisions are based on the administrative record and on public comments and response to comments. The administrative record is complete when the permit is issued.

**11.18 Public Access to Information.** This Section outlines the rights of the public to access information, documents, records and reports regarding any permit or permit application. The rights of the permit applicant to claim confidential information are specified and are intended only to protect trade secrets of the applicant. The section emphasizes the intent of the agency to not limit the disclosure of information to the public.

There is a maximum 45-day period to allow for public comment on the draft permit. The draft permit and fact sheet are made available for review in the Public Information Office of the WVDEP and in another place close to the facility.

During the comment period, the public may request a hearing on the draft permit. A hearing may also be held without a request from the public if the WVDEP feels that one is warranted. Notice of a public hearing is published in a newspaper of general circulation serving the area where the facility is located, and summaries of the notice are given on radio announcements.

Once a hearing is scheduled, the DWWWM represents the WVDEP at the public hearing. Any person at the hearing is allowed to submit oral or written statements and data concerning the draft permit. The agency may extend the comment period by so stating at the hearing. A written transcript of the hearing is made available to the public.

After the comment period ends, responses to public comments are prepared. Based on a review of the permit file and public comments, the agency decides to issue the permit as drafted, modify the draft permit, or deny the permit. The final decision on action on the permit is made by the Director of the DWWWM.

If no adverse comments were received on the draft permit during the comment period, the permit becomes effective on the date designated by the Director of the DWWWM. However, if the permit is appealed, the Environmental Quality Board will conduct a hearing. Appeals to the Environmental Quality Board for a hearing must include factual allegations demonstrating that the person requesting the hearing is aggrieved by the final determination and that the final determination is either "legally inconsistent with any provision of law" applicable to the permit or is "based upon an incorrect determination of a relevant or material fact."

During the hearing of a permit appeal before the EQB, documented evidence, witness testimony, witness cross-examination, and rebuttal of evidence may be entered into record. The EQB evaluates the presented evidence and arrives at a determination which becomes a "final decision". The final decision is put into writing and includes statements of: Finding of the fact, Conclusions of the Law, and the Order. The final decision is then delivered to each party or the party's attorney. The EQB follows this same procedure when Unilateral Administrative Orders are appealed.

The decision by the EQB may be appealed to civil court.

The WVDEP strives to limit the need for EQB hearings by providing citizens with early opportunities to participate in our permitting decisions. Moreover, the WVDEP attempts to settle disagreements over factual issues before reaching this stage in the permitting process by working closely with communities throughout the permitting process. Appeals to the EQB, however, remain an option for citizens who believe that WVDEP has erroneously made a final determination.

To keep the public informed of and involved in permitting decisions, the Act requires the WVDEP or the applicant to "publish notice" throughout the permit review process. In either case, the applicant would incur all costs associated with publishing notice. The WVDEP will publish a



public notice when a draft permit has been prepared or in the event that a permit application is denied. Public Notice is not required, however, when a request for permit modification, revocation and reissuance, or termination is denied.

The Act also requires that each notice be published at least for one week in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located. The WDEP may also require the applicant to send notices directly to each person requesting a meeting or hearing, and may require that the notice be posted at the site or at other public facilities in the area of the proposed facility.

## **7. Permit Modifications**

The State recognizes the same types of permit modifications as does EPA. The three recognized classifications of permit modifications can be found in Appendix I of 40 CFR Section 270.42, revised as of June 16, 2010. The modification procedure shall not be discussed at length, because it is the same procedure as EPA uses.

## **8. Interaction with Enforcement Personnel**

As needed there may be frequent interaction between the DWWWM enforcement personnel, environmental inspectors and the permit writers. The environmental inspectors are continually working to identify non-notifiers and handlers of hazardous waste that are operating without a permit. This information is provided to the enforcement personnel for administrative or civil action, as needed. Permit writers may assist enforcement personnel in the interpretation of permit conditions and regulatory requirements. Environmental inspectors and enforcement personnel inform permitting staff of changes in facility operations that may require permit modifications and ambiguous situations that require clarification. On occasion, permit writers may accompany environmental inspectors on site visits to permitted facilities.

## **9. Routine Review of Facility Operation**

The permit writer verifies that the facility has the required financial assurance mechanism in place to cover the cost of closure or post-closure care. Biennial Reporting System (BRS) data is available to the permit writer for all TSDF's.

## **10. Permitting Reports Required by RCRA**

The Data Management and Program Support section enters RCRAInfo data, which is transmitted to Region III EPA electronically. The RCRA grant requires the following computer generated reports shown in Table V.E - 2, as an essential part of the Permitting Section's reporting requirements:

**TABLE V.E - 2  
TYPES OF REPORTS AND DUE DATES**

REPORT NAME	FREQUENCY/DUE DATES
RCRAInfo Permitting Submissions	Filed electronically by the State on a monthly basis.
Compliance with Financial Assurance Requirements form on the status of the financial documents (closure/post-closure and liability) for each permitted facility	By July 15 of the Federal Fiscal Year.

### **11. Miscellaneous Units-Subpart X Permits**

In West Virginia, currently one facility has a permit for Miscellaneous Units-Subpart X. That facility is Allegany Ballistics Laboratory/Alliant. The permit is for the open burning of explosive hazardous wastes.

### **12. Joint Permitting**

Joint permits are RCRA permits that include and involve both the EPA and the State as oversight participants. These joint RCRA permits that include the EPA and the State are accomplished by the attachment of a rider to the State permit.

The following is an overview of the coordination between the DWWM and DAQ regarding each agency's responsibilities for RCRA permits:

The DAQ is responsible for issuing permits for combustion units covering areas such as construction, operation, air pollution performance standards, monitoring operating parameters, and control of air emissions. The DAQ reviews and includes in the permit training requirements for the operation of the combustion unit, such as an operator's certificate to operate the incinerator, the automatic waste feed cut off device and perform troubleshooting in the event of a malfunction. The rest of the RCRA permit that is covered under part 264 (including contingency plan, closure plan, financial assurance, etc.) is the responsibility of DWWM. The permit for the TSDF issued by DWWM gives specific reference to the DAQ permit for the TSDF's air emissions units. Moreover, close coordination between the Permitting Sections of the two agencies invariably occurs to ensure consistency in connected permit provisions. The two agencies communicate as needed to discuss permit issues regarding a specific TSDF.

### **F. General Inspection Procedures**

The WVDEP reviews all of the facilities that it regulates to identify those facilities that should be accorded the highest priority for inspection. The following characteristics are used to determine those facilities that require special attention:

- Sites that are perceived to be a threat to human health or the environment and which have a contaminated aquifer, especially when it has the potential to be used as a

drinking water resource. These sites are assigned the highest priority, since contaminated aquifers may create an acute threat to the public health, requiring immediate attention and remedial action.

- Sites where there have been escalated enforcement actions and/or repeated noncompliance. These sites include facilities that are currently the target of significant enforcement actions, including remedial action, permit revocation, and major fines; and/or facilities demonstrating frequent noncompliance and patterns of violation.

The RCRA Work Plan describes how inspection priorities are set for facilities that do not warrant special attention under the above criteria. According to the RCRA Work Plan, the State has the following inspection commitments:

- Inspect all TSDFs that were not inspected in the previous year, including any newly regulated TSDFs.
- Inspect any TSDF's that have a CEI due.
- Inspect annually, commercial TSDF's accepting CERCLA waste.
- Inspect State and local TSDF's that were not inspected in the previous year, or have not returned to compliance.
- As requested, accompany EPA and DAQ on hazardous waste combustion unit inspections.

The WVDEP makes provisions for its inspectors to receive EPA training. The following courses are routinely provided to new inspectors:

- Basic Inspector Training (Fundamentals of Environmental Compliance Monitoring Inspections);
- OSHA 40-Hour Hazardous Waste Operations;
- A variety of sampling training; and
- Other RCRA-related courses, as available.

#### **G. Waste Minimization Program and Biennial Report**

RCRA section 3002 requires generators of hazardous waste to identify, in their annual reports, the efforts undertaken to reduce volume and toxicity of waste generated and reductions in volume and toxicity actually achieved. Moreover, generators are required by 40 CFR Appendix to Part 262 to certify on their manifests that they have a waste reduction program in place to reduce the volume or toxicity of waste as far as economically practicable.

The waste minimization role is comprised of one position with a combined Waste Minimization and Generator Assistance role. The role is to assist generators and other members of the regulated community meet RCRA requirements.

#### **Biennial Report**

The Data Management and Program Support section manages the Biennial Report and is responsible for the review of the report. The biennial report procedure is as follows:

- The State distributes the instruction booklets, and forms to all LQGs and TSDFs for their completion and submittal to the OEE.
- This information undergoes pre-data entry review and corrections are made as needed.

- The corrected information is entered into RCRA Info.
- EPA runs edit report and any discrepancies noted may lead to investigations or inquiries of the facility which submitted the data.

## SECTION VI RADIOACTIVE MIXED WASTE, DELISTING AND RCRA SUBTITLE C CORRECTIVE ACTION

This section provides a description of WVDEP's structure and procedures for implementing RCRA Corrective Action, Radioactive Mixed Waste, and Delisting as part of the HWP. The WVDEP received authorization for RCRA Corrective Action, Radioactive Mixed Waste and Delisting in 2003. The WVDEP applied for approval to use the cleanup standards from the State's Voluntary Remediation Program in 2009.

### A. Radioactive Mixed Waste

Title 64, Series 23, The Radiological Health Rule was re-filed by the West Virginia Department of Health (DHHR), and became effective on July 1, 2001, thus updating the State's approach to governing the management of radioactive waste, including mixed waste. The WVDEP continues to retain its authority to regulate the hazardous component of mixed waste, to ensure that mixed wastes are regulated by the Radiological Health Rule or by the hazardous waste management regulations (33 CSR 20), as appropriate. Representatives of the WVDEP shall coordinate with representatives of the DHHR to ensure that mixed wastes are adequately regulated at those facilities that generate mixed wastes.

West Virginia has few facilities that generate radioactive wastes. The amount of radioactive waste generated within the State is very small. OEE staff will fulfill mixed waste responsibilities as follows. RCRA Inspectors will include mixed waste in inspection reports, as appropriate. All generators will be asked if they generate mixed waste. Permit writers will include mixed waste in any RCRA permit where mixed waste is treated, stored or disposed. The WVDEP will work with the NRC to gain admittance to any mixed waste generator to ascertain RCRA compliance.

### B. Hazardous Waste Delisting

33 CSR 20 has been amended to include provisions for the delisting of hazardous wastes by the State of WV. The state provisions are equivalent to EPA regulations, and establish a system for reimbursement of delisting activities by HWP. Prior to authorization, only EPA had delisted hazardous wastes in West Virginia. All State delistings are and will remain subject to EPA review, and are only effective in the State issuing the delisting, unless the delisting is recognized by another State.

#### Delisting Procedure

1. The State will notify EPA of all delisting petitions received and will transmit to EPA a copy of all final actions. The State will inform delisting petitioners of their need to petition EPA for a delisting action for interstate activities. The State will inform EPA at the beginning of any public notice or public comment period for a proposed delisting action.
2. Upon receipt of a request to delist a hazardous waste, the State and EPA will use the following delisting process:
  - a. The State will provide EPA with a copy of the request.

- b. The State will evaluate the request and determine whether the waste should be delisted. (The State understands that if delisting actions result in the State Program no longer being equivalent to EPA's, the Agency may begin proceedings to withdraw authorization of the State's program.)
- c. The State will notify the petitioner and EPA of the delisting decision.
- d. EPA will only publish its decision of the delisting request in the Federal Register if the petitioner requests an EPA determination. (While the effect of Federal delisting is to exclude a waste from Federal regulatory control, the State's regulatory control is not affected by Federal delisting.)
- e. If EPA receives a request to delist a hazardous waste, EPA will forward the request to the State. The request will then be handled as described above.
- f. If EPA receives a request to delist a hazardous waste and the petitioner indicated that it is knowledgeable of the State's role in the delisting process, but specifically requests an EPA decision, EPA will:
  - (i) Provide the State a copy of the request,
  - (ii) Invite the State to enter into a work sharing agreement with the Agency to evaluate the request and determine whether the waste should be delisted, and
    - \* If the State and EPA agree on the decision, EPA will publish the results of the decision in the Federal Register and note that the State's decision is the same as EPA's.
    - \* If the State disagrees with the EPA decision, EPA and the State will seek to resolve the issue. If no agreement can be reached, EPA will publish EPA's decision in the Federal Register and note that the State disagrees with the EPA decision.
- 3. The State will provide EPA with a copy of each State decision [if applicable] regarding waivers and delisting petitions at the time such requests are granted.

### **C. RCRA Corrective Action**

On December 15, 2003, EPA approved West Virginia's application for revision of the State authorized Hazardous Waste Program. The 2003 approval included, among other things, the authority for the State to implement corrective action at hazardous waste sites. The WVDEP implemented a gradual approach to implementation of the Corrective Action Program with EPA Region III retaining primary responsibility for oversight of some activities. Pursuant to its EPA-authorized Corrective Action Program, the State has been responsible for the issuance and enforcement of new corrective action permits since December 15, 2003. EPA continued to administer and enforce corrective action permits it had issued until they expired, or they were terminated by EPA because the State modified or issued a permit that is not less stringent than EPA's corrective action permit. Although the State has been authorized for the Corrective Action

program, EPA compensates for the States' limited resources and serves as the lead oversight agency for site investigations while transiting the State as the lead agency for remedy implementation, as set forth in the Memoranda of Agreements and grant work plans.

The OER administers multiple cleanup programs including Brownfields, leaking underground storage tanks, hazardous waste, landfill closure and assistance, pollution prevention and open dump, and voluntary remediation and has assumed primary responsibility for all corrective action duties for the State. The DWWM's Hazardous Waste Permitting Section is responsible for issuing corrective action permits drafted by the OER. The OEE may be called upon to assist in corrective action oversight at select facilities as circumstances warrant. This operational plan will yield the highest level of efficiency so Environmental Indicators (EIs) may be met in a timely manner.

The State has applied for approval from EPA to use the cleanup standards of the Voluntary Remediation Program (VRP) at RCRA Corrective Action facilities and sites. The VRP standards are found in the Voluntary Remediation and Redevelopment Act, 22 WV Code, Article 22, and the Voluntary Remediation and Redevelopment Rule, 60 CSR 3. The VRP cleanup standards are designed to ensure proper identification of contamination at sites, development of remediation standards that are protective of human health and the environment, selection of an effective and reliable remedial action, and implementation of that remedial action. The VRP provides for a range of risk-based remedial objectives for contaminated media and incorporates site-related information in the decision-making process. The approval to use the cleanup standards does not amount to authorization of the VRP to operate in lieu of the Corrective Action Program. EPA approval only allows the use of VRP cleanup standards in accordance with the existing requirements of the Corrective Action Program authorized by the EPA in 2003. This MOA between WVDEP and EPA clarifies the role of the VRP within the Corrective Action Program.

EPA reviewed the Voluntary Remediation Program and, in a letter to WVDEP dated August 21, 2008, EPA identified areas where the VRP standards are potentially inconsistent with EPA corrective action requirements and guidance documents. However, EPA has agreed to allow the use of the VRP standards to the extent that the requirements of the VRP are consistent with and no less stringent than the federal corrective action requirements, and that completed cleanups are consistent with EPA goals. The OER, upon request by EPA, will submit draft remedy selection decision documents for specific sites where the VRP standards are proposed to be used. In cases where EPA determines that the VRP standards are less protective than the authorized Corrective Action Program, the OER will not use the VRP standards in that particular case.

The OER will ensure that any cleanup subject to RCRA corrective action that is completed using the VRP standards will be as protective of human health and the environment as a cleanup completed pursuant to its authorized RCRA Corrective Action Program. Specifically, the State will, to the extent practicable, do the following:

1. Adopt flexible, practical, results-based approaches that focus on short-term control of human exposure and migration of contaminated groundwater, with the long-term goal being final cleanup;
2. Foster innovation, creativity, communication and technical expertise, focusing on accelerating cleanups and meeting program goals.
3. Provide ready public access to information and meaningful opportunities for public involvement in the cleanup process. Specifically, the OER and the Hazardous Waste Permitting Section of DWWM will implement public notice and participation procedures for corrective action permits, corrective action orders, voluntary corrective actions, and proposed remedy decisions, even in situations where cleanups are completed and

documented to meet the State's standards under its VRP. These public participation activities will include:

- Writing a statement of basis discussing the proposed remedy;
  - Providing public notice;
  - Providing a public comment period (30-45 days);
  - Holding a public hearing if requested;
  - Writing a final decision and response to comments;
  - Use of information repositories;
4. Ensure that each statement of basis describing the proposed remedy explicitly articulates all measures taken to address those provisions in the Voluntary Remediation Program that have been identified by EPA to potentially be inconsistent with the State's EPA-authorized Corrective Action Program.
  5. Not enter into Voluntary Remediation Agreements (VRAs) under the VRP with owners or operators of facilities currently subject to Federal and/or state corrective action enforcement, including, but not limited to, an administrative order, a judicial order, an injunction, or a consent decree.
  6. Provide for formal DEP review and approval of all required reports for corrective actions performed pursuant to permits and, orders and those performed voluntarily, including all remedial investigation/site characterization reports, risk assessment reports, cleanup/remedial work plans, final reports, and post-remediation care plans and, to the extent DEP approves any such plan or report, to put such approval in writing. The automatic approval provisions of the VRP Program, as provided in 60 CSR 3-10.3c, will not be utilized at facilities subject to its EPA-authorized Corrective Action Program.
  7. Submit to EPA copies of all final corrective action decision documents prior to issuance.
  8. Carefully consider key program guidance (and all updates) in conducting the RCRA Corrective Action Program. A list of key guidance documents for RCRA Corrective Action has been included as an attachment to this MOA.
  9. For facilities following the VRP standards:
    - (a) Require owners and operators of such facilities to describe the process and evaluation criteria for the recommended remedy (ies) in writing.
    - (b) Notify EPA of facilities for which WVDEP plans to approve the use of the VRP.
    - (c) Submit to EPA for review copies of required corrective action reports (remedial investigation/site characterization reports, risk assessment reports, cleanup/remedial work plans, final reports, and post-remediation care plans) within seven (7) days of EPA request.
    - (d) Submit to EPA for review a copy of all draft corrective action decision documents (including but not limited to written approvals of reports and work plans, disapproval comment letters, permit modifications, permits and orders, statements of basis for proposed remedies, and final remedy decisions) prior to issuance to the appropriate recipient (for example, the facility, the permittee, the public).
    - (e) Consider and respond to EPA's comments on draft corrective action decisions prior to issuance of final corrective action decision documents.

## SECTION VII

### OFFICE OF ENVIRONMENTAL ENFORCEMENT

#### A. Identification of Members in the Regulated Community

The West Virginia Code of State Rules (CSR) Title 33, Series 20, Section 4 (33 CSR 20 – 4) requires any person that engages in a hazardous waste activity in the State of West Virginia to notify the WVDEP when that activity begins. Notification is achieved through the completion of EPA Form 8700-12. WVDEP requires notification for CESQG.

Any person who has failed to properly notify of their hazardous waste activities may be detected during complaint investigations and environmental inspections by other parts of OEE or other Divisions of WVDEP. Appropriate action is taken to insure that persons who have failed to properly notify for all hazardous waste activities complete the required notification process.

#### B. Data Management Systems

See Section III.B. titled "Data management and Program Support Section" and Section V.B titled "Resource Recovery Act Information (RCRAInfo)" for a description of the Data Management System that is currently in use.

#### C. Environmental Inspections

The WVDEP Office of Environmental Enforcement performs RCRA hazardous waste inspections. Hazardous waste generators, TSDF's, and CESQGs are inspected. Various hazardous waste permitted facilities, hazardous waste generators, and hazardous waste transporters are inspected. If the inspector observes and documents a violation, the facility or generator is properly notified of the violation. An inspection report is generated to document each compliance inspection and if necessary the OEE may initiate an enforcement action.

##### 1. Types of Inspections

The types of inspections that the OEE Hazardous Waste section conducts are below:

**Compliance Evaluation Inspections (CEI)** – The CEI is the most common inspection provided by the OEE. CEI's are routine inspections of hazardous waste generators to evaluate compliance with the requirements of RCRA. The CEI for TSDF's are conducted to evaluate compliance with the requirements of their permit. The CEI includes a review of the files prior to the site inspection and encompasses an onsite examination of the satellite accumulation and storage areas as well as an onsite records review.

**Case Development Inspections (CDI)** – The CDI is conducted where RCRA violations are suspected or revealed during a CEI or other inspection. It is for the specific purpose of gathering data in support of an enforcement action.



**Comprehensive Groundwater Monitoring Evaluation (CGME)** – The CGME is conducted to ensure that the ground water monitoring systems are designed and function properly at RCRA facilities. CGME include all the reviews completed in a CEI with the addition of sampling and analysis of the facility's ground water monitoring systems and hydrological conditions.

**Compliance Sampling Inspections (CSI)** – The CSI is an inspection during which samples are collected for laboratory analysis. A sampling inspection may be conducted in conjunction with a CEI or other inspection.

**Operation and Maintenance Inspection (O&M)** – The O&M inspection is conducted to determine the adequacy of the operation and maintenance of ground water monitoring systems at RCRA facilities after a facility has closed.

**Laboratory Audit** – Laboratory audits are inspections of the laboratories performing environmental sample analyses. Audits ensure that the laboratory uses proper sample handling and analysis protocols.

**State Oversight Inspections** – State oversight inspections are conducted by the USEPA to determine the effectiveness of State hazardous waste management programs and to determine facility compliance.

**Compliance Assistance Visits (CAVs)** – The compliance assistance activity that is conducted at a specific site to assist the site to achieve compliance with RCRA requirements. It does not include evaluation events that would qualify as a CEI or other type of inspection. CAVs are conducted without the threat of enforcement and are not linked to violations or other actions.

**Focused Compliance Inspection (FCIs)** – The FCI is an onsite inspection that addresses only a specific portion of a RCRA requirement. Examples of a FCI would be a Subpart CC inspection or a Universal Waste inspection.

**Follow Up Inspection (FUIs)** – The FUI is conducted to verify the status of violations cited during a previous inspection. It does not include an inspection that has a compliance schedule associated with a formal action. The FUI may be conducted as part of another type of inspection.

**Complaint Investigation (CIs)** – The CIs are conducted when a complaint is received by the OEE. All citizen complaints are abated and or investigated.

**Compliance Schedule Evaluation (CSE)** – The CSE is conducted to verify compliance with an enforceable compliance schedule associated with a formal enforcement action. It may be conducted as part of another type of inspection.

## **2. Inspection Procedures**

While each inspection is somewhat unique based on facility activities, RCRA based inspections undertaken by Environmental Enforcement inspectors all involve similar components. These include pre-inspection preparation, the actual inspection, and any post-inspection activities initiated in order to address non-compliance with regulatory requirements. See below for a more detailed description of inspection components.

- a) Pre-Inspection preparation – This typically includes defining the scope of the inspection, coordinating and scheduling the inspection, reviewing the facility file, reviewing applicable regulations, developing an inspection plan and securing the appropriate checklists, and identifying needed inspection equipment

- b) Inspection – This typically includes facility entry, conducting an opening discussion, reviewing and understanding facility operations, waste handling procedures, and records, visual inspections, documentation of observations, and conducting a closing discussion.
- c) Inspection Follow-Up – report preparation, transmittal of the report to the facility and, if appropriate, initiation of informal and / or formal enforcement actions.

### **3. Inspection Resources and Workload**

The Environmental Enforcement Hazardous Waste Section has one manager, two environmental inspector supervisors, one environmental inspector specialist and nine environmental inspectors. Additional staff is available for administrative penalty and clerical support. All environmental inspectors, supervisors and specialists are equipped with a vehicle, lap top computers, Blackberry mobile phones as well as all equipment needed to complete effective environmental inspections. This includes but is not limited to personal protective equipment, air monitoring and field screening devices, sampling equipment and preservatives, and various hand tools.

Inspection workload is determined by federal grant commitments as well as current circumstances in the regulated community. Federal commitments require the following:

- All state, local and federally owned treatment, storage and disposal facilities must receive a comprehensive environmental inspection (CEI) annually.
- All privately owned permitted treatment, storage and disposal facilities must receive a CEI every other year and a groundwater monitoring evaluation (GME) every third year.
- 20% of all large quantity generators must be inspected annually.

Current circumstances within the regulated community that can influence inspection workload include investigation of citizen complaints, emergency response in reaction to accidental releases and discharges as well as changes in industrial practices or activities. Evaluation of the geographic areas or industrial sectors that need additional inspections is ongoing.

### **D. Enforcement Process**

This subsection is organized into five parts examining the following topics: enforcement procedures, enforcement of corrective action conditions, penalties and violations, time frames for enforcement actions, and the resources needed to operate the enforcement program.

#### **1. Enforcement Procedures**

Environmental Inspectors may issue a Notice of Violation (NOV) to a facility if a violation is observed and documented during the course of an inspection. The NOV will describe the violation and cite the sections of the rules and / or regulations that must be adhered to in order to abate the violation. The NOV will require a written submittal by the facility that describes efforts to correct the violation.

If a formal enforcement action is deemed necessary to address the violation(s) a Civil Administrative Penalty (CAP) may be assessed. The CAP is a formal enforcement action and punitive in nature. The CAP is authorized by the West Virginia State Code as well the Code of State Regulation. The proposed CAP assessment is prepared by the HW Unit and forwarded to Environmental Enforcement's Hearing Assessment Officer. A Notice of Civil Administrative Penalty is prepared by the Hearing Assessment Officer. In response to this notice, a facility may request an informal meeting to discuss the penalty amount. After the meeting, the assessment

officer will render a final decision as to the amount of the penalty. The CAP system has appeal provisions that allow for a facility to request a formal hearing with the Environmental Quality Board once a final decision has been reached by the hearing officer.

If non-compliant conditions exist at a facility, a Unilateral Enforcement Order may be issued to compel compliance with the applicable rules and regulations. Unilateral Orders are not punitive in nature, but simply require corrective actions by the facility.

If violations observed cannot be appropriately addressed through the use of CAPs and unilateral orders, civil actions will be initiated. A Report of Investigation paired with all appropriate supporting information will be referred to the WVDEP Office of Legal Services. A WVDEP attorney will then begin the process of penalty assessment and collection as well as securing injunctive relief through judicial actions or settlement agreements.

Criminal violations of hazardous waste rules and regulations are investigated by environmental inspectors and prosecuted by County Prosecuting Attorneys or USEPA Criminal Investigation Division (CID) agents and Department of Justice Attorneys. Local and state law enforcement officers may be involved as well.

## **2. Enforcement of Corrective Action Conditions Outlined in Operating and Post-Closure Permits**

Compliance with Corrective Action permit conditions are monitored by WVDEP Division of Land Restoration. Violations of these permit terms and conditions can potentially be referred to EE's Hazardous Waste Section for enforcement.

## **3. Penalties and Violations**

Civil Administrative Penalties (CAPs) are assessed for violations in accordance with WV Code §22-18-17 and Legislative Rule 33CSR22. Civil penalty (judicial) assessments and criminal penalty assessment is completed in accordance with WV Code §22-18-16 and 18.

## **4. Time frames for Enforcement Actions**

Generally, the State follows the EPA guidelines for timely and appropriate enforcement as found in the Hazardous Waste Civil Enforcement Response Policy (ERP).

## **5. Enforcement Resources**

All inspection staff participates in the enforcement process through the initial issuance of Notices of Violation (NOVs). Clerical staff is available to aid in this process. Once enforcement is initiated, administrative actions are referred to the Hearing Assessment Officer who has an assistant as well as clerical support to aid in the processing of administrative enforcement actions.

For civil (judicial) cases, Environmental Enforcement is aided by the WVDEPs Office of Legal Services.

Criminal enforcement can involve support activities from state and local law enforcement as well as USEPA CID and the US Department of Justice.

## SECTION VIII ESTIMATED REGULATED ACTIVITIES

### A. Generators

As seen in Table VIII.A - 1 there are currently a total of 2,977 generators including large, small, and conditionally exempt generators.

**TABLE VIII.A - 1  
NUMBER OF GENERATORS**

Generators (as defined by federal RCRA regulations)	Current	2009	2007
Large Quantity Generators (LQG)	115	*141	*131
Small Quantity Generators (SQG)	418	394	419
Conditionally Exempt Generators (CESQG)	2444	2400	2496
Total Generators	2977	2935	3046

\*Obtained from the National Biennial RCRA Hazardous Waste Reports, all remaining figures obtained from RCRAInfo WV State Handler Reports.

### B. Transporters

There are 37 In-State transporters which have received EPA identification numbers as of 2013. A current list of transporters is provided in the Appendix in section X.

### C. Permits

Approximately 17 TSDF's have operating permits, the number of permitted facilities varies. Currently there are no "RCRA Standardized Permits" in WV. The facilities with RCRA operating permits are listed in the Appendix section X.

### D. Type and Quantity of Hazardous Waste

Data on annual quantities of hazardous wastes in West Virginia is listed below in Table VIII.D – 1 for the 2011, 2009 and 2007 year biennial reporting. The quantities for different activities are summarized for LQG's that are required to submit a biennial report.

**TABLE VIII.D - 1  
TYPE AND QUANTITIES OF HAZARDOUS WASTE**

<b>Categories</b>	<b>Biennial Report Years</b>						
	<b>2011</b>	<b>2009</b>	<b>2007</b>	<b>2005</b>	<b>2003</b>	<b>2001</b>	<b>1999</b>
Tons Generated	62,334	92,449	76,577	76,602	87,315	101,195	92,503
Tons Shipped	39,478	68,690	49,476	46,417	35,307	43,072	
Tons Rec'd from Offsite	6,426	9,254	13,474	11,822	5,561	8,413	
LQG's	142	141	131	107	185	131	139

The data summary in this section is based on a review of the National Biennial RCRA Hazardous Waste Report documents residing on the following US EPA website: <http://www.epa.gov/epawaste/inforesources/data/biennialreport/index.htm>. West Virginia DEP collected and verified the data prior to submission to US EPA to be included in the National report. The 2011 report shows that 142 facilities met the definition of a RCRA Large Quantity Generator (LQG), and completed the reporting requirements. Hazardous waste amounts generated by small quantity and conditionally exempt small quantity generators are not included in the report. Of the 142 total LQGs, nine facilities were listed as generating 0 tons of hazardous waste. The remaining 133 LQG facilities generated all hazardous wastes quantities recorded in the 2011 biennial report.

Five facilities received hazardous waste from off-site in 2011. All of these facilities received the waste for energy recovery, metals recovery, or storage and transfer.

Six RCRA facilities treated or stored hazardous waste on-site.

In 2011, West Virginia ranked 31st out of 50 States in the amount of hazardous waste generated, according to the National Biennial Report. Overall, the number of permitted TSDF's has declined since the 2003 Program Description was written. According to a comparison of 2009 to 2011 biennial reporting data, the number of LQGs has remained relatively stable.

*There are no commercial hazardous waste RCRA permitted TSDFs located in West Virginia.*

## **SECTION IX STATE FORMS AND COORDINATION WITH OTHER AGENCIES**

The Memorandum of Agreement (MOA) outlines how the State and EPA will coordinate activities. A copy of this document may be found in the Appendix section X. Within the State, coordination to enforce the Hazardous Waste Management System rule occurs among the WWDEP and the DOH and PSC. The specific activities of these separate state agencies are detailed in the interagency MOU's in the Appendix section X. Coordination among the agencies occurs between the Director and their designee of the DWWM and the designee of the DOH and the PSC. Currently, the DOH contact is the State Safety Officer and the PSC contact is the Manager for Highway Safety. Telephone discussions, email, and inter-office mailings comprise the majority of methods for interagency communication. On occasion, compliance inspection reports and other specific facility data are exchanged between the state agencies, as issues of RCRA compliance arise concerning transporters, TSDF's or generators.

- Forms utilized by the DWWM are the following EPA forms:
  - Universal Hazardous Waste Manifest (EPA Form 8700-22);
  - Notification of Regulated Waste Activity (EPA Form 8700-12);
- The Permitting Section uses the standard EPA forms such as the RCRA Part A (EPA 8700-23) and Part B forms.



## SECTION X APPENDICES

- A. Memorandum of Agreement between DEP and EPA (which includes as an appendix the Memorandum of Understanding between the DEP, the Public Service Commission (PSC), and the Department of Transportation, Division of Highways (DOH))
- B. List of In-State Treatment, Storage, and Disposal Facilities
- C. List of In-State Transporters
- D. DEP's Legislative Rule – *Hazardous Waste Management System*, 33 C.S.R. 20
- E. Secretary of State's Legislative Rule – *Standard Size and Format for Rules and Procedures for Publication of the State Register or Parts of the State Register*, 153 C.S.R. 6
- F. Memorandum of Understanding between DEP's Division of Water and Waste Management and Division of Land Restoration
- G. DEP Organizational Charts
- H. DEP's Legislative Rule – *Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities*, 45 C.S.R. 25
- I. DOH's Legislative Rule – *Transportation of Hazardous Wastes upon Roads and Highways*, 157 C.S.R. 7
- J. PSC's Legislative Rule – *Rules Governing the Transportation of Hazardous Waste by Rail*, 150 C.S.R. 11
- K. DEP's Procedural Rule – *Rules on Freedom of Information Act Requests*, 60 C.S.R. 2
- L. DEP's Legislative Rule – *Requirements Governing Groundwater Standards*, 47 C.S.R. 12



